

HOUSE BILL 2617

By Lundberg

AN ACT to enact the Terror-Free Investment Act of 2008 and to amend Tennessee Code Annotated, Title 4, Chapter 3, Part 24; Title 8, Chapter 34; Title 8, Chapter 35; Title 8, Chapter 36; Title 8, Chapter 37; Title 8, Chapter 5 and Title 9, Chapter 4, relative to public investments in companies operating in certain countries.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 8, Chapter 37, Part 1, is amended by adding the following language as a new section:

Section 8-37-117.

(a) This section shall be known and may be cited as the "Terror-Free Investment Act of 2008".

(b) As used in this section, unless the context otherwise requires:

(1) "Business ties" means owning or controlling property or assets located in, having employees or facilities located in, providing goods or services to, obtaining goods or services from, having distribution agreements with, issuance of credit or loans to, purchasing bonds or commercial paper issued by, investing in or having equity ties to or with Iran, North Korea, Sudan, Syria or any company domiciled in Iran, North Korea, Syria, Sudan or their affiliates thereof;

(2) "Company" means any entity capable of affecting commerce, including, but not limited to, a government, government agency, natural person, legal person, sole proprietorship, partnership, firm, corporation, subsidiary, affiliate, franchisor, franchisee, joint venture, trade association, financial institution, utility, public franchise, provider of financial services, trust or enterprise;

(3) "Global security risk prohibitive company" means any foreign company, as determined by an independent third-party research firm specializing in global security risk, that has active or current business ties in, or with, any or all of the following countries: Iran, North Korea, Sudan or Syria;

(4) "Independent third-party research firm" means a private United States company that has submitted an affidavit to the state treasurer averring that:

(A) Such firm specializes in identifying and assessing companies that are exposed to global security risk;

(B) Such firm offers credible research on corporate ties to Iran, Syria, Sudan and/or North Korea that has been maintained and provided to the market for a minimum of one (1) calendar year; and

(C) Such firm does not have the potential for conflicts of interest stemming from investment banking and corporate finance activities;

(5) "Iran" means the Islamic Republic of Iran;

(6) "North Korea" means the Democratic People's Republic of North Korea;

(7) "Public investor" means the state treasurer and the Tennessee consolidated retirement system and their employees;

(8) "Sudan" means the Islamic Republic of Sudan; and

(9) "Syria" means the Syrian Arab Republic.

(c) All international equity holdings held by the Tennessee consolidated retirement system shall exclude global security risk prohibitive companies by January 1, 2009. Companies that are certified as non-governmental organizations by the United Nations, or that, according to an independent third-party research firm, engage solely in the provision of goods and services that relieve human suffering or promote health or

religious, spiritual, educational, humanitarian, or journalistic activities in Iran, North Korea, Sudan or Syria, are exempt from divestment and exclusion. The exclusion of holdings in global security risk prohibitive companies shall expire relative to each specific country individually at such time the President of the United States affirmatively and unambiguously states, by means including, but not limited to, enacted legislation, executive order or written certification from the President to Congress, that the United States department of state no longer recognizes Iran, North Korea, Sudan or Syria as state sponsors of terrorism.

(d) The state treasurer shall release a series of requests for proposals to investment managers for the establishment of international actively, or passively, managed equity investment strategies that identify and exclude all global security risk prohibitive companies. Such requests for proposals shall stipulate that as a requisite for being selected to manage an international equity portfolio on behalf of the Tennessee consolidated retirement system that the respondent shall attest that no global security risk prohibitive companies will be included in the portfolio held on behalf of the Tennessee consolidated retirement system and provide the respondent's plan for ensuring compliance with the provisions of this section. Such requests for proposals shall be released within ninety (90) days of the effective date of this act.

(e) Prior to November 1, 2008, the Tennessee consolidated retirement system shall select managers for its international equity holdings that respond to the requests for proposal and, in the Tennessee consolidated retirement system's view, are best suited to manage international equity portfolios while excluding global security risk prohibitive companies. Each manager selected will certify to the Tennessee consolidated retirement system that the portfolio excludes global security risk prohibitive companies on a quarterly basis. If a public investor finds that a manager with which it has

contracted has not complied with the divestiture requirement or holds global security risk prohibitive companies on behalf of the Tennessee consolidated retirement system at any future time, such public investor shall notify the manager that it has ninety (90) days to become compliant. If the manager fails to comply within that ninety-day period, the Tennessee consolidated retirement system shall immediately issue a new request for proposal and terminate the contract with the manager. Such terminated manager shall be suspended from conducting business with any public investor for a period of six (6) months commencing from the acceptance of the new manager's contract.

(f) No public investor shall be liable for breach of such investor's fiduciary duty to any public fund for which such investor has the authority to invest assets by reason of any decision to restrict, reduce or eliminate investments in corporations doing business in Iran, Syria, Sudan or North Korea in accordance with the requirements of this section.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.